



**FILED**

7-21-17  
10:38 AM

LR1/GK1/sf3/ek4 7/21/2017

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation on the Commission's Own Motion to Determine Whether the Aliso Canyon Natural Gas Storage Facility has Remained Out of Service for Nine or More Consecutive Months Pursuant to Public Utilities Code Section 455.5(a) and Whether any Expenses Associated with the Out of Service Plant Should be Disallowed from Southern California Gas Company's Rates.

Investigation 17-03-002  
(Filed March 2, 2017)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S  
PHASE 1 SCOPING MEMO AND RULING**

**Summary**

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules),<sup>1</sup> this Scoping Memo and Ruling sets forth the procedural schedule for Phase I of this proceeding<sup>2</sup>, assigns the presiding officer, and addresses the scope of the proceeding and other procedural matters following the prehearing conference (PHC) held on June 5, 2017.

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<sup>1</sup> All references to rules are to the Commission's Rules of Practice and Procedure, which are available on the Commission's website at

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M164/K610/164610801.PDF>

<sup>2</sup> The ultimate outcome of Phase I will determine whether it is necessary for a Phase II in this proceeding. If a Phase II is needed, a subsequent scoping memo will be issued upon the conclusion of Phase I.

## **1. Background**

On March 2, 2017, the California Public Utilities Commission (Commission) opened this investigation to determine whether the Aliso Canyon Natural Gas Storage Facility (Aliso Canyon) has remained out of service for nine or more months pursuant to Public Utilities (Pub. Util.) Code § 455.5(a).

Pub. Util. Code § 455.5(a) provides in relevant part that the Commission may eliminate consideration of the value of any facility that remains out of service for nine or more consecutive months and may disallow expenses that are related to the out-of-service facility, to be recovered through rates collected from customers by the utility that operates such facility.

On April 3, 2017, Southern California Gas Company (SoCalGas), The Utility Reform Network (TURN), and Southern California Generation Coalition (SCGC) each filed a response to this investigation. On April 10, 2017, the Office of Rate Advocates (ORA) also filed a response to the investigation. On May 30, 2017, Imperial Irrigation District (Imperial Irrigation) filed a motion for party status, which the Administrative Law Judge (ALJ) granted by e-mail ruling on May 31, 2017.

On June 15, 2017, Imperial Irrigation filed a motion to consolidate the Investigations (I.) of 17-02-002 and I.17-03-002. Imperial Irrigation's motion to consolidate will be addressed in a separate ruling that will be issued at a later date.

This investigation will be conducted in phases. Phase I will determine whether Aliso Canyon has been out of service for nine consecutive months pursuant to Pub. Util. Code § 455.5(a). If this is answered in the affirmative, then

the investigation will consider in Phase II whether any expenses associated with an out-of-service plant should be disallowed from SoCal Gas's rates.<sup>3</sup>

Scope, schedule, and other procedural issues were discussed at the PHC conducted on June 5, 2017. This ruling specifies the scope and schedule for resolving the issues presented in this proceeding.

### **1.1. Aliso Canyon Leak**

On October 23, 2015, Aliso Canyon, operated by SoCalGas, began to leak natural gas from its underground storage facility located near Porter Ranch, California. Upon discovery and reporting of the leak, multiple agencies began to work with SoCalGas to remedy the situation and investigate its cause. Since December 10, 2015, SoCalGas has been precluded from injecting natural gas at Aliso Canyon.<sup>4</sup>

On January 6, 2016, Governor Brown declared a state of emergency<sup>5</sup> and set forth several orders to help mitigate damage, including requiring SoCalGas to maximize daily withdrawals of gas for use or storage elsewhere, a prohibition of any further injection into the storage facility until comprehensive review of the safety of the wells and the air quality of the surrounding community was completed, ensuring that SoCalGas bears responsibility for the costs related to

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<sup>3</sup> If it is determined that a Phase II is necessary in this proceeding, a subsequent PHC will be conducted and scoping memo for Phase II will be issued.

<sup>4</sup> Department of Conservation's Division of Oil Gas and Geothermal Resources Order Number 1106. Aliso Canyon is SoCalGas' largest underground storage facility, which has a working capacity of 86.2 billion cubic feet before the shutdown.

<sup>5</sup> Governor Edmund G. Brown Jr.'s Emergency Order (January 6, 2016).

the natural gas leak, and strengthening oversight. On February 18, 2016, state officials announced that the gas leak was permanently sealed.<sup>6</sup>

## **2. Category, Need for Hearings, and *Ex Parte* Rules**

The Commission preliminarily categorized this proceeding as ratesetting as defined in Rule 1.3(e) and anticipated that this proceeding would require evidentiary hearings. The parties did not oppose the Commission's preliminary categorization or the need for hearings. This ruling affirms the preliminary categorization of ratesetting and the need for hearings. This ruling as to category is appealable pursuant to Rule 7.6.

As noted in the schedule below and in accordance with Rule 7.3(a), today's scoping memo adopts a procedural schedule that includes hearings for Phase I. In a ratesetting proceeding, *ex parte* rules as set forth in Rules 8.1 through 8.5 and Public Utilities (Pub. Util.) Code § 1701.3(c) apply.<sup>7</sup>

## **3. Discovery**

If parties have discovery disputes they are unable to resolve by meeting and conferring, they should raise these disputes with the presiding officer, pursuant to Rule 11.3.

## **4. Scope of Proceeding**

Through the responses, motion for party status, and discussions during the PHC, parties conducted an exchange that has helped to refine the scope of Phase I of this investigation.

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<sup>6</sup> Department of Conservation News Release (NR#2016-05) (February 18, 2016).

<sup>7</sup> *Ex parte* communications are permitted as described in Pub. Util. Code § 1701.1 and 1701.3. Interested parties are advised that, to the extent that the requirements of Rule 8.1 *et seq.* deviate from Pub. Util. Code §§ 1701.1 and 1701.3 as amended by Senate Bill 215, effective January 1, 2017, the statutory provisions govern.

The scope for Phase I of this proceeding is as follows:

1. Has Aliso Canyon been out of service for nine consecutive months pursuant to Pub. Util. Code § 455.5(a)?<sup>8</sup>
2. If question 1 is answered in the affirmative, then the next is: could it be considered a plant held for future use; and if so, should it be considered so here?

## 5. Proceeding Schedule

With the above in mind, and based on the responses of the parties and discussion at the PHC, the following schedule shall be adopted for this proceeding:

| EVENT   | DATE  |
|---|---|
| PHC   | June 5, 2017  |
| Opening Testimony Served  | September 1, 2017   |
| Concurrent Intervenor Testimony Served  | October 23, 2017  |
| Rebuttal Testimony Served   | November 13, 2017   |
| Parties inform the Administrative Law Judge (ALJ) via-email whether hearings are necessary and provide ALJ with Witness Lists and Cross-Examination Estimates | December 4, 2017  |
| Evidentiary Hearings (if needed)  | December 11, 2017 at 10:00 a.m.<br>Commission's Hearing Room<br>San Francisco, California |
| Concurrent Opening Briefs Filed and Served  | January 12, 2018  |

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<sup>8</sup> If question 1 is answered in the negative, then it will not be necessary to address question 2.

| <b>EVENT</b>  | <b>DATE</b>                                       |
|---|---|
| <b>Concurrent Reply Briefs Filed and Served</b>         | February 5, 2018                                  |
| <b>Proposed Decision Issued</b>                         | Within 90 days of Submission                      |
| <b>Comments on Proposed Decision<sup>9</sup></b>        | 20 days after Proposed Decision is issued         |
| <b>Reply Comments on Proposed Decision<sup>10</sup></b> | Five days after Comments                          |
| <b>Proposed Decision on Commission Agenda</b>           | Within 90 days of Proposed Decision <sup>11</sup> |

This schedule may be altered by the Commissioner or the ALJ. In any event, it is anticipated that Phase I of this proceeding should conclude within 18 months of the date of opening this investigation. If there are any workshops in this proceeding, notice of such workshops will be posted on the Commission's Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

## **6. Final Oral Argument**

Pursuant to Rule 13.13, any requests for a final oral argument before the Commission must be filed and served at the same time as closing briefs.<sup>12</sup>

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<sup>9</sup> Comments pursuant to Rule 14.3(a).

<sup>10</sup> Reply Comments pursuant to Rule 14.3(d).

<sup>11</sup> Final decision shall issue within 60 days, except that the period shall be extended for 30 days if an alternate decision is proposed by other than the assigned Commissioner.

## **7. Intervenor Compensation**

The PHC in this matter was held on June 5, 2017. Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by July 5, 2017.

## **8. Presiding Officer**

Pursuant to Rule 13.2, I designate ALJ Gerald F. Kelly as the Presiding Officer.

## **9. Filing, Service, and Service List**

In this proceeding, there are several different types of documents participants may prepare. Each type of document carries with it different obligations with respect to filing and service.

Parties must file certain documents as required by the Commission Rules or in response to rulings by either the assigned ALJ or myself. All formally filed documents must be filed with the Commission's Docket Office and served on the service list for the proceeding. Article 1 of the Rules contains all of the Commission's filing requirements. Parties must file and serve all pleadings and serve all testimony, as set forth in Article 1 of the Commission's Rules. Parties are encouraged to file and serve electronically, whenever possible, as it speeds processing of the filings and allows them to be posted on the Commission's website. More information about electronic filing is available at [www.cpuc.ca.gov/efile/](http://www.cpuc.ca.gov/efile/).

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<sup>12</sup> A party has a right to make a final oral argument before the Commission in rate-setting and quasi-legislative proceedings in which hearings were held and the party has complied with Rule 13.3

This proceeding will follow the electronic service protocols adopted by the Commission in Rule 1.10 for all documents, whether formally filed or just served. This Rule provides for electronic service of documents, in a searchable format, unless the party or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by U.S. mail. Concurrent e-mail service to ALL persons on the service list for whom an e-mail address is available, including those listed under "Information Only," is required. Parties are expected to provide paper copies of served documents upon request.

E-mail communication about this case should include, at a minimum, the following information on the subject line of the e-mail: *I.17-03-002*. In addition, the party sending the e-mail should briefly describe the attached communication; for example, *Comments*. Both an electronic and a hard copy should be served on the ALJ.

The official service list for this proceeding (the list) is available on the Commission's web page at: [https://ia.cpuc.ca.gov/servicelists/I1703002\\_84187.htm](https://ia.cpuc.ca.gov/servicelists/I1703002_84187.htm). Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process Office. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's website meets that definition.

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov).



## **10. Filing, Service, and Service List**

Persons may monitor this proceeding by subscribing to receive electronic copies of documents in this proceeding that are published on the Commission's website. There is no need to be on the official service list in order to use the subscription service. Instructions for enrolling in the subscription service are available on the Commission's website at <http://subscribecpuc.cpuc.ca.gov/>.

## **11. Summary of Outreach Efforts**

Pursuant to Pub. Util. Code §1771(a), the Commission sought the participation of those who are likely to be affected by a decision in this proceeding, including those who are likely to benefit from and those who are potentially subject to a decision in this proceeding.

The Commission contacted the following entities concerning this investigation: Los Angeles City Council Members, Los Angeles County Supervisors, Secretary for Environmental Protection, South Coast Air Quality Management District, California State Association of Counties, California League of Cities, California Association of Councils of Governments, California County Planning Directors Association, California Chamber of Commerce, Porter Ranch Neighborhood Council, Save Porter Ranch, and Los Angeles Department of Water and Power.

These entities were contacted via e-mail on March 16, 2017, because it was preliminarily determined that they or their constituents may be located near or impacted by this investigation. The Commission received no responses to these outreach efforts.

**IT IS RULED** that:

1. The scope is set forth in the body of this ruling unless amended by a subsequent ruling of the assigned Commissioner.
2. The schedule is set forth in the body of this ruling unless amended by a subsequent ruling of the assigned Commissioner.
3. This proceeding is categorized as ratesetting. This ruling as to category is appealable pursuant to Rule 7.6 Commission's Rules of Practice and Procedure.
4. This proceeding requires evidentiary hearings.
5. Any party requesting a final oral argument before the Commission shall file and serve such request on the same date that opening briefs are due.
6. *Ex parte* communications are subject to Rules 8.1 through 8.5 of the Commission's Rules of Practice and Procedure and Public Utilities Code § 1701.3(c).
7. Pursuant to Rule 13.2 of the Commission's Rules of Practice and Procedure, Administrative Law Judge Gerald F. Kelly is the Presiding Officer.

Dated July 21, 2017, at San Francisco, California.

LIANE M. RANDOLPH

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Liane M. Randolph  
Assigned Commissioner

/s/ GERALD F. KELLY

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Gerald F. Kelly  
Administrative Law Judge